COMMITTEE ON SMALL BUSINESS
RANKING DEMOCRATIC MEMBER

COMMITTEE ON FINANCIAL SERVICES
SUBCOMMITTEE ON HOUSING AND COMMUNITY OPPORTUNITY
SUBCOMMITTEE ON FINANCIAL INSTITUTIONS AND CONSUMER CREDIT
SUBCOMMITTEE ON DOMESTIC AND INTERNATIONAL MONETARY POLICY, TRADE AND TECHNOLOGY

Congress of the United States
House of Representatives
Washington, DC 20515

NYDIA M. VELAZQUEZ
12TH DISTRICT, NEW YORK

CONGRESSIONAL HISPANIC CAUCUS
CONGRESSIONAL CAUCUS FOR WOMEN'S ISSUES
CONGRESSIONAL PROGRESSIVE CAUCUS
OLDER AMERICANS CAUCUS
CONGRESSIONAL CHILDREN'S CAUCUS

April 6, 2004

Docket No. 04-06
Communications Division
Public Information Room
Mailstop 1-5
Office of the Comptroller of the Currency
250 E Street, SW
Washington, DC 20219

Regulation Comments
Attention: No. 2004-04
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, NW
Washington, DC 20522

Robert E. Feldinan
Executive Secretary
Attn: Comments
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

Docket No. R-1181
Jennifer J. Johnson
Secretary
Board of Governors
Federal Reserve System
20th St. and Constitution Ave., NW
Washington, DC 20551

To Officials of Federal Bank and Thrift Agencies:

I am writing to express my concerns about the proposed rulemaking regarding the Community Reinvestment Act (CRA). As a Member of the Financial Services Committee, and the representative for New York's 12th district that benefits greatly from the CRA, I am concerned that the proposed regulations will jeopardize investment in low-income communities.

Among the proposed changes to the CRA is amending the definition of "small institution" to mean an institution with total assets of less than $500 million, without regard to any holding company assets. This proposed change would eliminate the testing of investment and service by more than 1,100 banks that currently contribute significantly to community organizations in their surrounding community. This would mean that these lending institutions would no longer be rated on their records of opening and closing branches or delivery of retail banking services in low-moderate income communities. This loss will have a huge impact on the underserved communities that benefit from the resources of and relationship with the lending institutions in their immediate vicinity. I oppose this change in the definition and urge you to reconsider this proposal.

The proposal also calls for a new predatory lending standard which will affect performance evaluation of lending institutions. Predatory lending is a serious issue around the country and in New York City. The rates of default and foreclosure are skyrocketing in many neighborhoods, and predatory lending is the major cause. The standard you propose states that loans based on the foreclosure value of the collateral, not the ability of the borrower to repay, can result in downgrades in CRA ratings. This standard is not strong enough as lending institutions that charge excessive fees resulting in stripped equity, but not default or foreclosure, would not be penalized for their actions. Any federal standard on predatory lending must address fees, prepayment penalties, loan flipping, and mandatory arbitration. Without a strong standard, unscrupulous lenders will continue to prey on unsuspecting families and, in the case of the proposed CRA rule, even get credit for their actions.

Beyond these issues, the proposed CRA regulation fails to further encourage banks to invest and reach out to low-income communities. For example, financial institutions that offer remittance products and invest in non-traditional activities such as housing counseling and youth financial literacy programs should be eligible to receive CRA credit. In addition, the federal agencies charged with implementing CRA should consider increasing the incentive for banks to offer lower-cost consumer banking products, including "starter" deposit accounts and check cashing services.

With regards to the rating system, the proposed regulation also offers a unique opportunity to assess the effectiveness of the current system. As you are aware, the overwhelming majority of institutions have received at least a rating of "Satisfactory" on the test in recent years, yet pervasive social issues still plaque low-income communities and many issues, such as defaults and foreclosures, are actually on the rise. While not to suggest that banks should bear the sole responsibility for solving these issues, they can play a significant role in reducing poverty and community development. The fact that so few institutions currently fall below the "Satisfactory" rating level may indicate the need to revise the rating system's methodology. Such periodic revisions are necessary to ensure that banks are devising new mechanisms to serve low- and moderate income populations, rather than simply meeting the minimal requirements of the status quo rating system. Furthermore, the frequency of exams must also be evaluated to ensure that as a lending institution's capacity fluctuates, its CRA investment remains proportional. Also, under current CRA regulations, banks can still choose whether or not to include affiliates on exams. Given the past use of bank affiliates to facilitate payday lending operations, I am concerned that the proposed rule fails to address this issue by failing to require that affiliate activity be evaluated as well.

The proposed rule also calls for enhanced data disclosure with regards to small business lending and high cost loans. Specifically, the federal agencies propose that they will publicly report the specific census tract location of small businesses receiving loans. While this will improve the ability of the public to determine if banks are investing in underserved neighborhoods, it will not hold banks accountable based on the new findings. Federal agencies must not merely report the new data on CRA exams, but must use the new data to make CRA exams more rigorous.

The Community Reinvestment Act is a crucial source of investment in low-income communities. The current rulemaking process offers an opportunity to strengthen the activities of lending institutions in underserved communities. I urge you to incorporate my suggestions into your final rule and ensure that lending institutions truly make considerable investments in low-income communities.

Sincerely,

Nydia M.. Velázquez
Member of Congress